

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

RICKIE HICKS,

Petitioner,

v.

Case No. 2:04-cv-179  
HON. ROBERT HOLMES BELL

TERRY SHERMAN,

Respondent.

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**OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S**

**REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on April 24, 2007. The Report and Recommendation was duly served on the parties. The Court has received objections from the petitioner. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Petitioner argues that the Michigan Court of Appeals' decision was unreasonable in light of the facts presented in the state court proceeding. Petitioner argues that the Michigan Court of Appeals never mentioned the facts and circumstances raised in Petitioner's brief. Petitioner argues that the Michigan court failed to appreciate the significance of the trial court dismissing the only African American juror. Petitioner has failed to show that the Michigan Court of Appeals' decision denying his claim that the juror was excused for racial reasons was a decision that involved

an unreasonable application of clearly established federal law or was unreasonable in light of the evidence presented in the state court proceeding. Nor can petitioner establish that his rights were violated by the instruction provided by the court to the jury after the jury sent a note with a question to the judge. Petitioner's remaining claims clearly lack merit.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

Dated: August 1, 2007

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
CHIEF UNITED STATES DISTRICT JUDGE